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A T T O R N E Y S A T L A W

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October 7, 2009

Jeff Jordan, Esq.
Supervisory Attorney
Complaints Examination Legal Administration
Federal Elections Commission
Washington, DC 20463
Via Certified Mail No. *fed ex 8686 6497 1676*

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2009 OCT -8 AM 10:45
OFFICE OF GENERAL
COUNSEL

Subject Matter: MUR 6212 (Respondent Lewis M. Oliver III)

Dear Mr. Jordan:

Please accept the following response to the complaint by Mr. Keith Recine, assigned the above-referenced identification MUR code 6212. This response is on behalf of my client, respondent Lewis M. Oliver III, Chairman, Orange County Republican Executive Committee.

I submit and request that no action should be taken by the FEC on this matter with respect to Mr. Recine's allegations. The content of this response demonstrates clearly that there is no merit whatever to any of the claims made by complainant Mr. Recine

Please allow me to underscore by way of introduction that:

1. The FEC-related claims are very few and very simple.
2. The claims can be quickly dismissed based on the review of just a few documents, one of which Mr. Recine conveniently omitted from his complaint.
3. Most of the matters have already been reviewed and dismissed by Florida agencies.
4. The amounts of money involved are *de minimis* by FEC standards.
5. Mr. Oliver is not a public official or candidate; he is just a volunteer with no record of any kind.
6. This complaint was filed as part of long-standing political vendetta against Mr. Oliver

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to retaliate for unrelated matters, and to injure Mr. Oliver's professional reputation on an ongoing basis with the knowledge that the matter is damaging to him as long as it is pending.

I would therefore respectfully request that, in the interest of justice, the FEC expedite its review and dismissal of this matter.

I. SUMMARY & BACKGROUND

As a preamble to this response, I will state for the record the following by way of summary and background, and as amplification on my introductory points:

1. The complaint contains only a few, simple FEC-related matters; most of the claims are not within FEC jurisdiction - The complaint is disorganized, and contains mostly allegations that have nothing to do with federal elections-related (or other) federal statutes, or with federal campaign accounts. Therefore, respectfully, most of the allegations are beyond the jurisdiction (or interest) of the FEC. This complaint is essentially identical to one filed by Mr. Recine with (a) the Florida Elections Commission and (b) the State's Attorney of Florida's 9th Judicial Circuit, subsequently referred to the Orange County Sheriff's Department and then to the Florida Department of Law Enforcement for final disposition. (See Exhibit "A" for complaint to State's Attorney.)

2. Only a short review of a few documents is required to dismiss the complaint - The few FEC-related matters referenced by Mr. Recine can be easily and quickly dismissed based on a review of just a few simple documents (2 FEC federal reports, 2 non-federal REC reports, copies of 3 checks, 1 invoice). None of the documents submitted by Mr. Recine support his complaint in any way. The few documents he submitted either (a) directly contradict his claims, (b) have nothing to do with the substance of the claims, or (c) relate solely to state and not to federal matters. Additionally Mr. Recine omitted one critical document from his complaint (the Hillsboro Federal Report). Mr. Recine must have misread the FEC reports (either negligently or deliberately) with respect to the matter of the transfer of funds, and *simply asserted the absence* of receipts with respect to the matter of reimbursements *when in fact the receipts exist* (and are attached). There are no contradictory documents or proof of any kind; all of the documents are both clear and also clearly exculpatory.

3. Non-FEC Matters Were Already Reviewed and Dismissed by State Agencies - The matters that do not involve FEC jurisdiction have already been addressed and dismissed by the Florida Elections Commission and the Florida Department of Law Enforcement (FDLE), and need not be re-addressed by the FEC. (See letters from Florida Elections Commission and Florida Department of Law Enforcement attached as Exhibit "B").

4. Allegations Involve De Minimis Sums - By FEC Standards, the alleged violations included in the complaint involve, both individually and collectively, relatively small amounts of money: (a) a \$10,000 transfer between federal accounts, plus a \$10,000 transfer between non-federal accounts, (b) a specific \$3,000 reimbursement to my client for yard signs and (3) other

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unspecified (and non-existent) alleged payments to my client from the federal account, which payments are not identified or described, and are not supported by any documentary evidence.

5. Mr. Oliver is neither a public official, nor a candidate for any office, nor even the treasurer of the federal account the complaint references, nor does he have any record of any kind - Mr. Oliver was singled out in this complaint for retaliatory political and personal reasons. Further, he has been chairman of the Orange County Republican Executive Committee for almost a full decade, and has never been investigated, charged, fined, etc. for any crime of any kind, politically-related or otherwise. Additionally, in nearly 25 years as a member of the Florida and Georgia Bar Associations, Mr. Oliver has never been the subject of a complaint for any matter of any kind, much less the subject of any type of disciplinary action.

6. The Complaint is part of a long-standing political Vendetta, and intended to harass Mr. Oliver - Complainant Keith Recine has been a political adversary of Mr. Oliver's for nearly 2 decades. He is a known close associate of Mr. Doug Guetzloe, who has also been an adversary for nearly 2 decades. Recently, Mr. Oliver filed a grievance against Mr. Guetzloe requesting that Mr. Guetzloe be removed from the Republican Party for activities damaging to the Party. This FEC complaint, and it's Florida counterparts, were filed and made public immediately after Mr. Oliver's grievance against Mr. Guetzloe was referred by the RPOF Chairman to the RPOF Grievance Committee for action. Mr. Guetzloe and Mr. Recine have made significant efforts to publicize this false complaint, and the complaint has been the subject of numerous news reports, including a network TV affiliate interview by Mr. Recine.

II. ALLEGED FEDERAL MATTERS

The complaint arguably alleges or raises up to 6 *potential* areas of FEC jurisdiction, each of which are addressed in detail in this Section II, in order of apparent seriousness.

1. Unlawful transfer or "laundering" of monies between federal and non-federal accounts. This claim is perhaps the most serious of the false claims made by Mr. Recine, but it is patently false, outrageously defamatory and directly, easily, quickly and conclusively contradicted by all available evidence. In fact, and contrary to Mr. Recine's claim, the transfers between the two committees were entirely lawful, fully and properly documented "*federal-to-federal*" and "*non-federal-to-non-federal*" transfers, respectively. Explanation/detail follows:

(a). Mr. Recine claims in paragraph 4 of his complaint that:

"\$10,000 from the Orange County Republican Executive Committee (non-federal account) was sent to the Hillsboro County (federal account). The next day a check came from the Hillsboro Executive Committee and was deposited into the Orange County REC Federal Account. This is clearly "laundering" money and violative of many campaign laws both federally and locally."

Each and every one of these 3 sentences is clearly, unambiguously and provably false in every material respect. Mr. Recine either misread and omitted the relevant reports in a fit of gross,

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inexcusable negligence, or else he deliberately mis-stated and omitted them in an act of clear and unambiguous perjury.

(b) The transfer from the Orange County Republican Executive Committee (OCREC), [correctly] identified by Mr. Recine as going from a non-federal account, is clearly and correctly identified and reported on the attached Exhibit "C", filed by OCREC with the Orange County Supervisor of Elections, as required by Florida Statutes. This shows a check written from OCREC's non-federal account. This report was included by Mr. Recine in his attachments but supports my client's position and contradicts Mr. Recine's Claim.

(c) However, more importantly, this check transfer from OCREC to the Hillsboro REC was not in fact sent to or deposited in the Hillsboro REC FEDERAL account as Mr. Recine falsely claimed. Instead, it was made out to, and deposited in, the Hillsboro REC NON-FEDERAL account as clearly and unambiguously proved in the Hillsboro REC report to its local Supervisor of Elections attached hereto as Exhibit "D". REPEAT: NON-FEDERAL TO NON-FEDERAL. Inexplicably, this report was attached by Mr. Recine to his complaint but nonetheless clearly and unambiguously contradicts and disproves Mr. Recine's claim.

(d) The cancelled check from OCREC, dated 10/30/08, for this non-federal to non-federal transfer is attached hereto as Exhibit "E" by way of additional backup.

(e) This non-federal-to-non-federal (or "state to state") transfer is permitted by State Law in Florida, although it has nothing to do with the FEC (Florida regulatory and statutory references are available upon request). Additionally, the Florida Elections Commission has already reviewed this portion of the complaint and found no violations of Florida law (see Exhibit "B").

(f) Next, the FEC report by Hillsboro County (attached as Exhibit "F") very clearly documents a \$10,000 transfer from the Hillsboro REC federal account to the OCREC federal account. Repeat: FEDERAL TO FEDERAL. IT IS EXTREMELY IMPORTANT TO NOTE THAT MR. RECINE CONVENIENTLY OMITTED TO INCLUDE THIS VITAL AND WHOLLY EXCULPATORY PUBLICLY AVAILABLE REPORT WITH HIS COMPLAINT. This report clearly and unambiguously contradicts and disproves Mr. Recine's claim and is the missing "4th leg" of documentation of the 2-way transaction (the other 3 legs being the OCREC federal report and the two state reports). His failure to include this most vital public record is clear evidence of bad faith and/or gross negligence, and may well constitute perjury.

(g) OCREC correctly and accurately reported this transfer from the Hillsboro REC federal account to the OCREC federal account in the FEC report attached hereto as Exhibit "G". Inexplicably, this report was included in Mr. Recine's complaint but actually contradicts his claim.

(h) The actual check associated with this federal-to-federal transfer, dated 10/30/08, is

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attached hereto as Exhibit "H" as further backup proof of the *federal-to-federal* transfer.

(I) Such transfers are very clearly permitted by FEC regulations (see attached Exhibit "I").

(j) Prior to writing the checks, as evidence of good faith, the transfers were vetted by OCREC's federal account consultant.

(k) OCREC's own federal account treasurer also vetted the transfers in advance by reviewing and downloading and reviewing copies of the relevant FEC regulations.

(l) Mr. Recine was not a member of OCREC when the transfers took place (October 2008), did not attend OCREC meetings at the time, and has no possible way to know directly about the accuracy or truthfulness of the false claims he has made.

(m) Notwithstanding the fact that Mr. Recine was not a member of OCREC at the time of these transfers (October 2008) and could therefore not have any direct knowledge of the claims he made, he was nevertheless present as a member in good standing at an April 2009 OCREC meeting where a question was raised about this same transfer by another OCREC member, Mr. Recine's friend and associate Doug Guetzloe. At this time, the OCREC treasurer and Mr. Oliver both accurately and correctly explained this transfer to the committee (including Mr. Recine) in some detail, including the information set forth above. There were many witnesses to this explanation. Notwithstanding this careful and correct explanation, Mr. Recine nonetheless proceeded with this false claim. At no time did he or anyone else request from Mr. Oliver or the OCREC treasurer Ron Bass (or anyone else) either copies of the relevant reports (each and every one of which are public records anyway) or a written explanation of the transfers. Therefore, Mr. Recine either knew or should have known that this claim was false.

(n) In conclusion, the claim of illegal transfer or "laundering" of monies between federal and non-federal accounts is demonstrably false based conclusively on all of the relevant evidence. There is no evidence whatever of the claim made by Mr. Recine. On the contrary, the evidence suggests gross and malicious bad faith, extreme negligence and/or willful perjury by Mr. Recine.

2. \$3,000 check to Mr. Oliver for Yard Signs. Mr. Recine alleges that my client received a check for \$3,000 from the OCREC federal account (check # 1002), not as an actual payment/reimbursement for the purchase of yard signs (which yard signs Mr. Recine suggests were never ordered or received), but rather presumably as some sort of improper payment.

(a) Mr. Recine has made this charge without a shred of evidence of any kind. It is a mere assertion.

(b) Neither Mr. Recine no anyone else ever requested copies of invoices or receipts for

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this transaction, so he could not possibly know whether any existed or not.

(c) In fact, a detailed and clear set of backup for this reimbursement exists and has been part of the OCREC treasurer's files since the date of the check. The backup includes the invoice from the billing agency dated October 13, 2008 (Exhibit "J") kept in OCREC records dating to October 2008, together with the transmitting e-mails confirming that the charge was for yard signs (Exhibit "K"). In addition, we have Mr. Oliver's own personal credit card statements (Exhibit "L") showing the charge.

(d) Mr. Recine mis-states the date of the writing of the check in an effort to link this reimbursement to the above-discussed transfers of funds. He states that Mr. Oliver "*wrote himself*" this check "*the day after*" OCREC got federal funds from the Hillsboro REC. This is false. In fact, the date of the \$3,000 federal account check to Mr. Oliver is October 23, 2008 (10 days after the charge to my client's credit card) and actually cleared Mr. Oliver's Bank on the same date (see check attached as Exhibit "M"). The Federal account transfer from the Hillsboro REC actually took place a week later on October 30, 2008, not a day earlier as Mr. Recine has falsely claimed. Further, Mr. Oliver did not sign the check and therefore did not "write himself" the check. It was signed by OCREC Treasurer Ron Bass and OCREC Vice-Chairman Gary Pfister (refer to Exhibit "M"), not by Mr. Oliver.

(e) The payment was in fact for yard signs, and those signs were actually received. There are, in addition to the invoice, e-mail backup and personal credit card statement referenced above, literally dozens of volunteers and campaign staff who witnessed the delivery of the signs just a few days later.

3. "Secret" Federal Account. Mr. Recine asserts that the OCREC federal account was some sort of "secret" that was "never reported to the membership" and was only "discovered" after "further examination and questioning". First, it's not clear that there is an FEC violation for an account that is "secret" from a group's membership anyway, provided that the appropriate forms and reports are filed with the FEC. However, putting that aside:

(a) The OCREC federal account has been carefully reported to the FEC from its inception through every relevant FEC reporting period.

(b) The OCREC federal account is discussed and reflected in numerous OCREC meeting minutes and OCREC treasurer reports (samples attached as Exhibit "N").

(c) The OCREC federal account was a source of pride for OCREC and was therefore frequently touted at meetings and in the media.

(d) There are literally hundreds of eyewitnesses to the above, many of whom will sign affidavits confirming same.

(e) The OCREC account was well known to State Party and other County REC

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committees, or else the Hillsboro County REC would not have proposed the transfer (discussed above) of funds from their federal account to the OCREC federal account.

4. **"Mr. Oliver was a Direct Beneficiary to many of these funds"**. This statement is completely false. No proof offered because none exists. It is difficult to parse through whether Mr. Recine is accusing Mr. Oliver of getting *additional* checks from the federal account over and above the \$3,000 check for yard signs already addressed above in Section II.(2). However, there are no other payments to Mr. Oliver from the federal account shown on any FEC report (reimbursements to Mr. Oliver from the non-federal account are briefly discussed in Section III below). Consequently, my client has no other way to respond to this unsupported, non-specific allegation other than to suggest that the FEC must dismiss it out of hand in the absence of any evidence.

5. **Mr. Oliver has been coordinating Federal campaign contributions with Orange County Mayor Rich Crotty**. There is no explanation of what this means. Mayor Crotty was not on the ballot in 2008, and has never been a federal candidate. My client is therefore unable to respond meaningfully this claim, and respectfully submits that it must be dismissed for the lack of any explanation, or of any evidence.

6. **Mr. Oliver failed to obtain full OCREC Committee Approval of Expenditures**. It is respectfully submitted that, provided that the proper reports are filed with the FEC, and further provided that expenditures are appropriate for federal accounts, the internal procedures of how OCREC makes its spending decisions with respect to federal (or other) accounts is beyond the jurisdiction of the FEC. Second, the \$10,000 federal account transfer discussed above was not an *outgoing expenditure* of funds *from* OCREC, but was instead an *incoming deposit* of funds *to* OCREC. Third, the claim is factually false. All expenditures by OCREC in the 2008 election cycle were part of an approved campaign budget adopted by the full OCREC committee.

This concludes my client's detailed response to the false Complaint filed by Mr. Recine. In short, Mr. Recine has offered no evidence of any violation of any matter within the jurisdiction of the FEC. On the contrary, there is clear, convincing and uncontroverted exculpatory evidence in every instance.

Further, this matter has been brought by the complainant frivolously, and possibly in bad faith, in an effort to punish and/or intimidate my client for matters wholly unrelated to the FEC.

My client therefore respectfully requests an expeditious dismissal of this matter.

Thank you.

Sincerely,


Carlos Mendez, Esq.

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Exhibit "E" (1 of 1)

Image# 20003367001

PEC Form 3X (Rev. 03/2003)

**DETAILED SUMMARY PAGE
of Disbursements**

Page 4

II. DISBURSEMENTS

**COLUMN A
Total This Period**

**COLUMN B
Calendar Year-to-Date**

21. Operating Expenditures:		
(a) Shared Federal/Non-Federal Activity (from Schedule H4)		
(1) Federal Share	3928.52	42503.48
(2) Non-Federal Share	10101.94	109267.68
(b) Other Federal Operating Expenditures	2789.81	4422.45
(c) Total Operating Expenditures (add 21(a)(1), 21(a)(2) and 21(b))	16820.27	158193.59
22. Transfers to Affiliated Party Committee	10000.00	10000.00
23. Contributions to Federal Candidate Committees and Other Political Committees	0.00	0.00
24. Independent Expenditure (see Schedule E)	0.00	0.00
25. Coordinated Expenditures Made by Party Committee (2 U.S.C. 441a(d)) (see Schedule F)	0.00	0.00
26. Loan Repayments Made	0.00	0.00
27. Loans Made	0.00	0.00
28. Refunds of Contributions To:		
(a) Individuals/Persons Other Than Political Committees	0.00	400.00
(b) Political Party Committees	0.00	0.00
(c) Other Political Committees (such as PACs)	0.00	0.00
(d) Total Contribution Refunds (add Lines 28(a), 28(b), and 28(c))	0.00	400.00
29. Other Disbursements	0.00	0.00
30. Federal Election Activity (2 U.S.C. 431(2)(B))		
(a) Shared Federal Election Activity (from Schedule H4)	0.00	0.00
(1) Federal Share		
(2) "Loan" Share	0.00	0.00
(b) Federal Election Activity Paid Entirely With Federal Funds	35514.33	92425.76
(c) Total Federal Election Activity (add Lines 30(a)(1), 30(a)(2) and 30(b))	35514.33	92425.76
31. Total Disbursements (add Lines 21(c), 22, 23, 24, 25, 26, 27, 28(d), 29 and 30(c))	62334.60	259019.35
32. Total Federal Disbursements (subtract Line 21(a)(2) and Line 30(a)(2) from Line 31)	52232.66	148751.67

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Image# 20034821001

**SCHEDULE A (FEC Form 3X)
ITEMIZED RECEIPTS**Use separate schedule(s)
for each category of the
Detailed Summary Page

FORM LINE NUMBER: PAGE 11/10

(check only one)

<input type="checkbox"/> 11a	<input type="checkbox"/> 11b	<input type="checkbox"/> 11c	<input checked="" type="checkbox"/> 12	<input type="checkbox"/> 13	<input type="checkbox"/> 14	<input type="checkbox"/> 15	<input type="checkbox"/> 16	<input type="checkbox"/> 17
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Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (in Full)

ORANGE COUNTY REPUBLICAN EXECUTIVE COMMITTEE

Full Name (Last, First, Middle Initial)

HILLSBOROUGH COUNTY REPUBLICAN EXECUTIVE COMMITTEE

Mailing Address P. O. Box 2500

City

Brandon

State

FL

Zip Code

33508

FEC ID number of contributing
federal political committee.

C C00431643

Name of Employer

Occupation

Receipt For:

Primary

General

Other (specify) ▼

Aggregate Year-to-Date ▼

10000.00

Date of Receipt

M / D / Y Y Y Y
10 / 31 / 2008

Transaction ID: SA12.4251

Amount of Each Receipt this Period

10000.00

Transfer from affiliate
CCM

B.

Full Name (Last, First, Middle Initial)

REPUBLICAN PARTY OF FLORIDA

Mailing Address 420 E. Jefferson Street

P.O. BOX 311

City

Tallahassee

State

FL

Zip Code

32301

FEC ID number of contributing
federal political committee.

C C00088259

Name of Employer

Occupation

Receipt For:

Primary

General

Other (specify) ▼

Aggregate Year-to-Date ▼

21400.00

Date of Receipt

M / D / Y Y Y Y
10 / 25 / 2008

Transaction ID: SA12.4246

Amount of Each Receipt this Period

2100.00

Transfer from affiliate

C.

Full Name (Last, First, Middle Initial)

REPUBLICAN PARTY OF FLORIDA

Mailing Address 420 E. Jefferson Street

P.O. BOX 311

City

Tallahassee

State

FL

Zip Code

32301

FEC ID number of contributing
federal political committee.

C C00088259

Name of Employer

Occupation

Receipt For:

Primary

General

Other (specify) ▼

Aggregate Year-to-Date ▼

22487.19

Date of Receipt

M / D / Y Y Y Y
11 / 08 / 2008

Transaction ID: SA12.4252

Amount of Each Receipt this Period

2067.19

Transfer from affiliate

SUBTOTAL of Receipts This Page (optional) ▶

14167.19

TOTAL This Period (last page this line number only) ▶

14167.19

Exhibit "I" (1 of 1)

Contributions and Other Sources of Funds

Overdrafts

If a bank honors a check written by a committee with insufficient funds in its account, no contribution from the bank results as long as the overdraft:

- is made on an account subject to automatic overdraft protection;
 - is subject to the usual and customary interest rate; and
 - is subject to a repayment schedule. 100.82(d).
- An overdraft that does not meet the above conditions is a prohibited contribution.

Overdraft protection secured through a line of credit is subject to the rules on bank loans.

contributions. Rebates, however, must be offered in the ordinary course of business and on the same terms and conditions as those offered to nonpolitical entities. Otherwise, the rebate may be considered a contribution—a prohibited contribution if the vendor is a corporation. See, for example, AOs 1986-22 and 1985-28.

Transfers from Other Party Committees

A party committee may receive unlimited transfers of permissible funds from other party committees and party organizations. A party organization making such transfers, however, may trigger federal registration. 102.4(a)(1)(ii), (iv) and (a)(2).

6. Interest and Dividends

A committee may earn interest and dividends on funds invested in, for example, a savings account, money market fund or certificate of deposit. Interest and dividends are not contributions.

Disclosure of Bank on Statement of Organization

- Any bank where the committee deposits funds must be listed on the Statement of Organization (Form 1) or an amendment.
- Other institutions holding committee investments (such as stocks, bonds, mutual funds, etc.) are not disclosed on Form 1. Before disbursing such funds, however, the committee must transfer them to a checking account maintained at one of the committee's campaign depositories. 102.10 and 103.3(a). See also AOs 1990-8, 1997-6, 1986-18 and 1980-39.

Taxes

A committee must generally pay taxes on interest and dividend income. See Appendix F for IRS information.

7. Other Sources of Funds

Offsets to Operating Expenditures

Offsets to operating expenditures, such as returns of deposits, refunds and rebates, are not considered

Transfers of Candidate Campaign Funds

A candidate's authorized committee may transfer unlimited campaign funds to a party committee or organization. 113.2(c). Any nonfederal law that would prohibit such a transfer to a party organization is preempted by federal law. See AO 1993-8.

Loan Repayments

If a party committee makes a loan to another party committee or organization, the loan repayments received are not contributions but must be composed of permissible funds.

Any interest charged on the loan must also be paid with permissible funds. Interest payments are not considered contributions unless they exceed the prevailing interest rates. 100.52(b)(5).

Loans to non-party political committees are subject to contribution limits.

Ballot Access Payments

Fees paid to a party committee as a condition of ballot access are not contributions. This exemption covers ballot access fees paid by federal candidates as a requirement of state law and those paid to state and subordinate party committees by delegates and delegate committees. Such fees must be paid with permissible funds, except that individual delegates may use funds that are not subject to the limits. 100.90 and 110.14(c)(1)(i) and (2). See Appendix D for information on delegate activity.

Building Fund Donations

State, district and local party committees may accept unlimited funds donated specifically to defray